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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Rune Kraft

Plaintiff,

vs.

Chevron Corporation, a Delaware
corporation, et al.,

Defendants.

No. CV-21-00575-PHX-DJH

**DEFENDANTS' JOINT RESPONSE
TO PLAINTIFF'S MOTION TO
ALTER OR AMEND THE
JUDGMENT BASED ON RULE 59(e)
(DOC. 96)**

Defendants Chevron Corporation, ORIX Financial Services, Inc., CEMEX, Inc.,
and Lehigh Hanson, Inc. ("Defendants") file this Response to Plaintiff Rune Kraft's
("Kraft") Motion to Alter or Amend the Judgment Based on Rule 59(e) (Doc. 96),
respectfully showing the Court as follows.

INTRODUCTION

The Court should strike Kraft's Motion because it violates this Court's Order
prohibiting him from further filings (Doc. 60), and because he continues to insult this Court
and attack the integrity of the judiciary. Should the Court choose not to strike Kraft's

1 Motion, the Court should deny it because Kraft fails to justify alteration or amendment
2 under Rule 59(e) by failing to address the central issue underlying the dismissal of his
3 lawsuit: that he cannot circumvent the rule requiring corporations to be represented by
4 licensed counsel by taking a purported assignment of the corporations' claims.
5

6 **ARGUMENTS AND AUTHORITIES**

7 **I. Kraft's Filing Should be Stricken Because It Violates the Court's Order and** 8 **Levies Attacks on the Court.**

9 On August 13, 2021, the Court stayed the proceedings and prohibited Kraft from
10 filing any papers during the stay unless otherwise ordered. Doc. 60. The Court never lifted
11 the stay. The Court should strike Kraft's Motion because it violates the Court's Order.
12

13 In addition, the Court should strike Kraft's Motion for its lack of civility and attacks
14 on the integrity of the judiciary. Several times already, Kraft has levied shocking insults
15 against the Court. *See* Docs. 84 at 7, 90 at 2. Here, Kraft accuses the Court of dishonesty,
16 "scheming" with counsel for Defendants, and fraud (Mot. at 10); lying, "a single-handed
17 devotion to obstruct justice through deceptions, obfuscations, lies and false statements..."
18 (*id.* at 11); and misconduct, lying, malice, and collusion with Defendants (*id.* at 12). The
19 Court need not permit these insults. *See Zal v. Steppe*, 968 F.2d 924, 928 (9th Cir. 1992),
20 *citing Sacher v. United States*, 343 U.S. 1, 9, (1952) ("[I]t is the right of . . . every litigant
21 to press his claim....But if the ruling is adverse, it is not [his] right to resist it or to insult
22 the judge...."); *see also In re Mann*, 229 F.3d 657, 659 (7th Cir. 2000) ("Litigants are
23 understandably disappointed when they do not prevail in court, but that does not give them
24 the license to attack the integrity of the judiciary. Such abusive conduct will not be
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1 tolerated, not even from a pro se litigant.”).

2 Indeed, such incivility and attacks on judicial integrity justify striking Kraft’s
3 motion, independent of his violation of the Court’s Order. *See, e.g., Tabi v. Regents & Trs.*
4 *of Santa Ana Coll.*, 2021 WL 1192002 at *9 (C.D. Cal. Mar. 5, 2021) (threatening to strike
5 uncivil filing) *citing Koehl v. Bernstein*, 740 F.3d 860, 863 (2d Cir. 2014) (dismissal for
6 “offensive, abusive and insulting language” directed at judge).

7
8 **II. The Court Should Deny Kraft’s Motion Because it Fails to Justify Amendment or**
9 **Alteration Under Rule 59(e).**

10 Alternatively, the Court should deny Kraft’s Motion because he fails to justify
11 alteration or amendment under Federal Rule of Civil Procedure 59(e). “Amendment or
12 alteration is appropriate under Rule 59(e) if (1) the district court is presented with newly
13 discovered evidence, (2) the district court committed clear error or made an initial decision
14 that was manifestly unjust, or (3) there is an intervening change in controlling law.”
15 *Zimmerman v. City of Oakland*, 255 F.3d 734, 740 (9th Cir. 2001). Because none of these
16 circumstances has occurred here, amendment or alteration is not appropriate. The Court
17 should deny Kraft’s Motion.¹

18
19 In his rambling motion, Kraft raises a smorgasbord of rules, statutes, and case law.
20 But not a single one addresses the Court’s reasoning for dismissal of his lawsuit: Kraft
21 “failed to obtain counsel as ordered (Doc. 60) and Plaintiff may not circumvent the
22 longstanding rule requiring corporations to appear through counsel by a purported
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27 ¹ Kraft cites a First Circuit decision concerning the Court’s power to alter or amend a
28 judgment, which differs from the Ninth Circuit’s standard. *See* Mot. at 6. But the Court
should deny Kraft’s Motion under the First Circuit standard, as well, for the same reasons
discussed above.

1 assignment of the corporations' claims." Doc. 95 at 5. He has offered no newly-discovered
 2 evidence on this issue; he has not demonstrated that the court committed clear error or
 3 made a manifestly unjust decision; and there has been no intervening change in controlling
 4 law on this issue. The Court's decision was based on longstanding precedent that
 5 corporations must appear through counsel, and that a purported assignment of claims does
 6 not permit Kraft to circumvent that rule. Because Kraft has failed to even address this
 7 holding, let alone demonstrate clear error or manifest injustice, the Court should deny
 8 Kraft's Motion.
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11 CONCLUSION

12 This Court should strike Kraft's Motion for violating the Court's prohibition on
 13 further filings and because of its incivility and attacks on the integrity of the judiciary. If
 14 the Court chooses not to strike Kraft's Motion, the Court should deny it because Kraft fails
 15 to justify amendment or alteration under Rule 59(e).
 16

17 DATED this 30th day of December 2021

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing pleading has been electronically filed on this 30th day of December, 2021, with the Clerk of the Court using CM/ECF, which will automatically send a copy via the Court's CM/ECF on all counsel of record.

/s/ Erich J. Almonte
Erich J. Almonte

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Rune Kraft

Plaintiff,

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Chevron Corporation, a Delaware
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Defendants.

No. CV-21-00575-PHX-DJH

**[PROPOSED] ORDER DENYING
PLAINTIFF'S MOTION TO ALTER
OR AMEND THE JUDGMENT BASED
ON RULE 59(e)**

(The Honorable Diane J. Humetewa)

The Court, having considered Plaintiff's Motion to Alter or Amend the Judgment Based on Rule 59(e), Defendants Chevron Corporation, ORIX Financial Services, Inc., CEMEX, Inc., and Lehigh Hanson, Inc.'s Response to Plaintiff's Motion to Alter or Amend the Judgment Based on Rule 59(e), and all other briefs and supporting papers, holds as follows.

The Court hereby DENIES Plaintiff's Motion to Alter or Amended the Judgment Based on Rule 59(e).